IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD.

HON'BLE SRI JUSTICE V.V. S. RAO

Writ Petition No. 21987 of 2005

Dated: 7th October 2005

Between:

Smt.K. Jayamma

… Petitioner

And

The District Collector (Panchayat Wing),

Ongole, Prakasam District.

… Respondents

Oral Order:

The petitioner is the Sarpanch of Mogilicherla Gram Panchayat. By impugned notice/order dated 21-9-2005 the petitioner was asked to show cause as to why she should not be prohibited from operating General / EFC / S.G.R.Y. / S.F.C. funds and also with regard to the irregularities shown in the Annexure thereto. While doing so, the second respondent also prohibited the petitioner from operating the drawal of these funds until further orders. The proceedings

of the second respondent is assailed in the writ petition.

The learned counsel for the petitioner submits that under Rule 42 (1) of the Rules it is competent for the executive authority only to prohibit from operating the Gram Panchayat funds and the Sarpanch is not executive authority, when there is a Panchayat Secretary. Secondly, it is alleged that the impugned notice/order was passed based on the report submitted by the Divisional Panchayat Officer and the Ward members, a copy of which is not communicated to the petitioner, and therefore, the same is in violation of the principles of natural justice.

After giving anxious consideration to the submissions made by the learned counsel for the petitioner, this Court is not able to countenance any submissions at this stage. Firstly, the petitioner has an effective alternative remedy of appeal to the District Collector under Rule 42 (2) of the Rules framed in G.O.Ms.No.30, Panchayat Raj and Rural Development (Relief) Department, dated 20-1-1995. Secondly, admittedly it is only the Sarpanch who is given the power to operate various funds of Gram Panchayat and a reading of the Rules would show that for all purposes in the matter of operating the finances of the Gram Panchayat the Sarpanch is the executive authority. Insofar as furnishing of the report of the Divisional Panchayat Officer and the complaint given by the Ward members is concerned, it is always open to the petitioner to approach the second respondent and obtain copies thereof towards submitting explanation to the impugned show cause notice/order. The writ petition is therefore dismissed giving liberty to the petitioner to avail remedy of appeal before the District Collector.

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(V.V.S. Rao, J)

7th October 2005

svs